



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 4, 1994

Honorable Mike Driscoll
Harris County Attorney
1001 Preston, Suite 634
Houston, Texas 77002

Letter Opinion No. 94-019

Re: Whether an appraisal review board, under section 25.25(d) of the Tax Code, may correct the market value of real property that receives productivity valuation under chapter 23 of the Tax Code (RQ-523)

Dear Mr. Driscoll:

You ask us for our opinion on whether an appraisal review board, under section 25.25(d) of the Tax Code, may correct the market value of real property that receives productivity valuation under chapter 23 of the Tax Code.

Section 25.25(d) provides as follows:

(d) At any time prior to the date the taxes become delinquent, a property owner or the chief appraiser may file a motion with the appraisal review board to change the appraisal roll to correct an error *that resulted in an incorrect appraised value for the owner's property*. However, the error may not be corrected unless it resulted in an appraised value that exceeds by more than one-third the correct appraised value. If the appraisal roll is changed under this subsection, the property owner must pay to each affected taxing unit a late-correction penalty equal to 10 percent of the amount of taxes as calculated on the basis of the corrected appraised value. The roll may not be changed under this subsection if the property was the subject of a protest brought by the property owner under Chapter 41 or if the appraised value of the property was established as a result of a written agreement between the property owner or his agent and the appraisal district. [Emphasis added.]

The relevant provisions in chapter 23 provide that the appraised value of real property appraised pursuant to the capitalization, or productivity, methods provided in that chapter shall not exceed market value. See Tax Code §§ 23.41, .52, .73.¹ Therefore, if the real

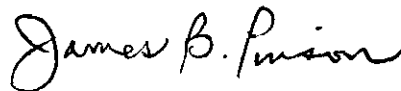
¹Section 23.41 provides, in pertinent part:

property was appraised at a value based on a capitalization method used under section 23.41, 23.52, or 23.73 of the Tax Code and the corrected market value would be less than such appraised value, thus making the appraised value "incorrect" under the applicable appraisal section of chapter 23, the appraisal review board may correct an erroneous market value pursuant to section 25.25(d), provided that the other conditions of that section are satisfied.

S U M M A R Y

Pursuant to section 25.25(d) of the Tax Code, an appraisal review board may correct an erroneous market value of real property that was appraised at a value based on a capitalization method used under section 23.41, 23.52, or 23.73 of the Tax Code if the corrected market value would be less than the appraised value and the other conditions of section 25.25(d) are satisfied.

Yours very truly,



James B. Pinson
Assistant Attorney General
Opinion Committee

(footnote continued)

its capacity to produce agricultural products is determined by capitalizing the average net income the land would have yielded under prudent management from production of agricultural products during the five years preceding the current year. However, if the value of land as determined by capitalization of average net income exceeds the market value of the land as determined by other generally accepted appraisal methods, the land shall be appraised by application of the other appraisal methods.

Section 23.52 provides, in pertinent part:

(a) The appraised value of qualified open-space land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value as determined by other appraisal methods.

Section 23.73 provides, in pertinent part:

(a) The appraised value of qualified timber land is determined on the basis of the category of the land, using accepted income capitalization methods applied to average net to land. The appraised value so determined may not exceed the market value of the land as determined by other appraisal methods.